

**EXHIBIT BE**

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-99000-smb

4 - - - - - x

5 In the Matter of:

6 BERNARD L. MADOFF INVESTMENT SECURITIES LLC,

7 Debtor.

8 - - - - - x

9 Adv. Case No. 08-01789-smb

10 - - - - - x

11 SECURITIES INVESTOR PROTECTION CORPORATION,

12 Plaintiff,

13 v.

14 BERNARD L. MADOFF INVESTMENT SECURITIES LLC,

15 Defendant.

16 - - - - - x

17 Adv. Case No. 10-04889-smb

18 - - - - - x

19 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF THE BERNARD

20 L. MADOFF TRUST,

21 Plaintiff,

22 v.

23 THE ESTATE OF ROBERT SHERVYR,

24 Defendant.

25 - - - - - x

Page 2

1 United States Bankruptcy Court  
2 One Bowling Green  
3 New York, NY 10004  
4

5 March 17, 2020  
6 10:04 AM  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

21 B E F O R E :  
22 HON STUART M. BERNSTEIN  
23 U.S. BANKRUPTCY JUDGE  
24  
25 ECRO: SHEA

1 HEARING re 08-01789-smb Conference on Letter of Baker &  
2 Hostetler dated March 5, 2020 re Mediation

3

4 HEARING re 10-04889-smb Status Conference

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 CHAITMAN LLP

4 Attorneys for the Shervy Defendants

5 465 Park Avenue

6 New York, NY 10022

7

8 BY: HELEN CHAITMAN (TELEPHONICALLY)

9

10 BAKER HOSTETLER LLP

11 Attorneys for the Trustee

12 45 Rockefeller Plaza

13 New York, NY 10111

14

15 BY: NICHOLAS J. CREMONA

16

17 ALSO PRESENT TELEPHONICALLY:

18

19 KEVIN H. BELL

20 DAVID J. SHEEHAN

21 JENNIFER ALLIM

22

23

24

25

1 THE COURT: Let me tell you what my thought is. I  
2 don't have a problem with trying this one mediation that  
3 gets scheduled. Is the mediator going forward in light of,  
4 you know, the coronavirus?

5 MR. CREMONA: At the moment we have a mediation  
6 scheduled for a half day on April 24th at 9 a.m. That's  
7 part of the difficulty that we were having with JAMS. And,  
8 you know, I have not met Mr. Hurkin-Torres, who Ms. Chaitman  
9 is recommending, and who we've agreed to. And I assume he  
10 has -- he's more than capable, he just does not have that  
11 much availability, which, hence, is why we are out to April  
12 24.

13 THE COURT: Things are going to slow down.

14 MR. CREMONA: I understand completely, Your Honor.  
15 And everything is fluid. So as of now, that is scheduled to  
16 go forward. That's all I can say.

17 THE COURT: Okay. Here's what I thought we should  
18 do, and you can respond. Go forward with the one mediation.  
19 Given the history of the parties or the counsel, if it  
20 doesn't -- if mediation doesn't work, I don't see the  
21 purpose to putting everybody through the time and effort of  
22 mediation in the 59 other cases.

23 And what I would do -- this is something -- what  
24 I've been thinking about doing, and this is something that  
25 we talked about two or three years ago, is having a

1 consolidated trial on certain issues that seem to affect  
2 every single case. For example, whether the accounts from  
3 which the transfers were made were held or owned by BLMIS or  
4 Madoff personally. I don't see the reason to try that case  
5 -- that issue 60 times, if it can be avoided. This issue of  
6 whether or not it was a Ponzi Scheme, and if so, when it  
7 began. Whether there are other badges of fraud. I don't  
8 know if -- I think that could be done on an omnibus basis,  
9 not on a case-by-case basis. And this issue of allocation,  
10 when BLMIS was buying T-bills and equity securities through  
11 the proprietary trading market, whether it was allocating  
12 those trades to customers. It just seems to me that we  
13 could try those issues in a consolidated trial. And, you  
14 know, then we can have individualized trials on the deposits  
15 and withdrawals, once those are resolved, assuming they're  
16 resolved in favor of the Trustee.

17 So what I'm suggesting then, for today, go forward  
18 with your arbitration, we'll -- I'm sorry, mediation. We'll  
19 -- I'll schedule another conference for about two months  
20 out, which is May already, we'll do it telephonically.

21 By the way, Mr. Cremona, I'm going to do these --  
22 all these conferences telephonically now, we're going to  
23 just telework.

24 MR. CREMONA: I understand from the Clerk.

25 THE COURT: And if it works, fine. Then we'll

1 All right. Thank you very much. I think that  
2 takes care of your one matter. Right, Ms. Chaitman?

3 MR. CREMONA: Actually, Your Honor --

4 MS. CHAITMAN: No, there's --

5 THE COURT: Oh, there's another one?

6 MR. CREMONA: Yeah, the other matter is a request  
7 by the Trustee for a 7056 Conference, which we would now  
8 like to convert, but I'm happy to discuss that. That's in  
9 the Savin case, which is Adversary Proceeding Number 10-  
10 4889.

11 THE COURT: You know my view on these summary  
12 judgment --

13 MR. CREMONA: I completely --

14 THE COURT: -- motions, particularly on the issues  
15 I've identified, I have to try it.

16 MR. CREMONA: I understand. And that's -- what I  
17 -- so, Your Honor, when I filed this letter, it was February  
18 10, it was in response to a motion to withdraw the reference  
19 that Ms. Chaitman filed in the Savin matter, which is now  
20 pending before Judge Swain. And the Trustee had since filed  
21 his opposition to that motion.

22 THE COURT: Oh, all right.

23 MR. CREMONA: So at that point in time, we had  
24 requested a 7056 Conference, but we've gotten subsequent  
25 guidance from Your Honor, and subsequent guidance from Judge



C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: March 18, 2020